

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

WILLIAM SMITH, 08-B-0527,

Plaintiff,

08-CV-0485(Sr)

v.

ERIE COUNTY HOLDING CENTER, et al.,

Defendants.

DECISION AND ORDER

By Decision and Order entered January 5, 2009, the Court granted plaintiff permission to proceed *in forma pauperis* and directed the Clerk of the Court to cause the United States Marshals Service to serve the summons and complaint on the defendants. Dkt. #6. Plaintiff completed the necessary summonses and Marshals Service Return and Receipt of Service Forms, and summonses were issued on January 22, 2009. The summons and complaint and the Marshals Forms forwarded to Michael A. Benson were returned to the Marshals Service with a notation of "No longer at this address." Dkt. #8.

The Court requests that the Erie County Department of Law ascertain a proper address for defendant Michael A. Benson pursuant to *Valentin v. Dinkins*, 121 F.3d 72 (2d. Cir. 1997) (per curiam). The Erie County Department of Law need not undertake to defend or indemnify Michael A. Benson at this juncture. This order merely provides a means by which the Marshals Service may properly serve Michael A.

Benson as instructed by the Second Circuit in *Valentin*. The Erie County Department of Law is hereby requested to produce the information specified above to the undersigned by **May 28, 2010**.

Plaintiff is granted an additional 90 days to effect service of the summons and complaint upon defendant Michael A. Benson. See Fed.R.Civ.P. 4(m).

SO ORDERED.

DATED: Buffalo, New York
May 10, 2010

s/ H. Kenneth Schroeder, Jr.
H. KENNETH SCHROEDER, JR.
United States Magistrate Judge